

### REMARKS

Favorable reconsideration of this patent application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 2-8,17-21,24, and 25 have been rejected as not being based upon the written description under 35 USC 112; Claims 2-5,7,17,20,24, and 25 have been rejected as being unpatentable over Winn in view of Teegarden et al. and Price under 35 USC 103; Claim 6 has been rejected as being unpatentable over Winn in view of Teegarden et al., Price and Ferguson under 35 USC 103; Claims 8,18, and 21 have been rejected as being unpatentable over Winn in view of Teegarden et al., Price and Baker et al. under 35 USC 103; and Claim 19 has been rejected as being unpatentable over Winn in view of Teegarden et al., Price, Baker et al., and Ferguson under 35 USC 103. Claims 24 and 25 have been cancelled, Claims 26-31 have been inserted, and consequently, Claims 2-8,17-21, and 26-31 are now active in this patent application.

The interview with Examiner Chan is hereby acknowledged and sincerely appreciated as a means for expediting the prosecution of this patent application toward allowance. During the course of the interview, newly inserted Claims 26 and 29 were fully discussed in light of the prior art of record, and it was agreed that Claims 26 and 29 patentably defined over the prior art of record. It was also agreed that the rejection of the claims under 35 USC 112 would be withdrawn in view of the cancellation of the objectionable language noted by the examiner.

More particularly, Claims 26 and 29 now recite the fact that a contact member (48) is movably disposed at a cigarette carton height determination station for movement into contact engagement with an upper surface portion of a particular one of the plurality of different cigarette cartons, and a sensor (42) is disposed at the cigarette carton height determination station for sensing the disposition of the contact member disposed in contact with the upper surface portion of the particular one of the plurality of different cigarette cartons disposed at the cigarette carton height determination station so as to in fact determine the height di-

mension of the particular cigarette carton. It was respectfully noted to the examiner, and agreed by the examiner, that none of the prior art references of record Winn, Price, Tee-garden et al., Baker et al., and Ferguson disclose the contact member and sensing means of the present invention. It is therefore submitted that all of the claims of this patent application patentably define over all of the noted prior art of record.

In light of the foregoing, it is submitted that this patent application is now in condition for allowance, and an early and favorable action is now anticipated and awaited.

Respectfully Submitted,  
**SCHWARTZ & WEINRIEB**



---

Steven W. Weinrieb  
Attorney of Record  
Registration No. 26,520  
(703) 415-1250